S.B.Criminal Revision Petition No.1080/2007

Deva Ram
v.
State of Rajasthan

Date of Order :: 24th October, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. G.R.Punia, for the petitioner.
Mr. V.R.Mehta, Public Prosecutor.

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This revision petition is preferred to challenge the order dated 18.9.2007 passed by learned Special Judge, Prevention of Corruption Act Cases, Jodhpur. By the order impugned learned trial court framed a charge against the petitioner under Section 120-B IPC.

The contention of counsel for the petitioner is that the charge under Section 120-B IPC against the petitioner is framed merely on the presumption being brother of Smt. Seeta Devi. It is also asserted that the petitioner alongwith Narainram and Tilakram was accompanying Smt. Seeta Devi but the two persons named above were discharged but the petitioner though having the same act was charged under Section 120-B IPC merely on the count that he is brother of Smt. Seeta Devi.

Heard counsel for the parties and also examined the record.

From the order impugned it reveals that Smt. Seeta Devi while holding office of Sarpanch alleged to have demanded and accepted bribe and while doing so she was accompanied by Narainram, Tilakram, Devaram (petitioner) and one Shri Mohanlal. Learned trial court discharged Narainram and Tilakram on the count that no direct evidence was available against them for demanding and accepting illegal gratification or bribe, however, framed a charge against the petitioner being brother of accused Smt. Seeta Devi. It is not in dispute that Narainram, Tilakram and the petitioner, all the three persons were accompanying Smt. Seeta Devi and there was no specific evidence against all the three persons named above regarding demand and acceptance of illegal gratification, however, on basis of presumption a charge under Section 120-B IPC is framed against the petitioner being brother of main accused.

It is well settled that no charge can be framed on basis of vague presumption. It is the petitioner as well as Shri Narainram and Tilakram though accompanied accused Smt. Seeta Devi but no clear evidence was available against them regarding demand and acceptance of illegal gratification, as such the case of the petitioner could have not been distinguished with the case of Shri Narainram and Tilakram. The presumption drawn by the trial court

against the petitioner on the count that he is brother of Smt. Seeta Devi is absolutely immaterial in present controversy.

In view of it, this revision petition is allowed. The order dated 18.9.2007 passed by learned Special Judge, Prevention of Corruption Act Cases, Jodhpur stands quashed to the extent it relates to framing of charge against the petitioner under Section 120-B IPC and the petitioner is ordered to be discharged from the allegations levelled against him.

(GOVIND MATHUR),J.

Kkm/ps.